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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,200	07/15/2005	Toshihiro Ito	1422-0683PUS1	3457
2292 7590 12/30/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER GEORGE, PATRICIA ANN				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
12/30/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/542,200

Applicant(s)

ITO ET AL.

Examiner

Patricia A. George

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, and 7-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misaki in view of the combination of Kwak and Nanbu (6,074,675).

Misaki teaches rice or barley (column 1, lines. 7-8) coated with vitamins (column 2, lines. 43-45) and an iron salt (column 9, line 47) that have further been coated with an emulsifying agent (column 9, line 49).

Misaki also teaches vitamin and mineral enriched rice that has been coated (column 1, lines 54-57) with hydrogenated oil (column 2, lines 56-57) and glycerol fatty acid esters (column 2, line 65).

Misaki teaches rice or barley (column 1, lines. 7-8) coated with an iron salt (column 9, line 47), hydrogenated oil (, column 2, lines 56-57) and glycerol fatty acid esters (column 2, line 65), as in claim 2.

Misaki does not teach the coating of the iron salt with an emulsifying agent.

Kwak, teaches an emulsifier- coated iron salt composition for use in foods (col. 3, lines 15-20). Kwak teaches that the iron salt may be coated with polyglycerin

monostearate which is an emulsifying agent and equivalent to the glycerol fatty acid ester of Claim 8 (col. 3, lines 21-22), as in claims 1 and 3.

Kwak teaches an emulsifier-coated iron salt composition for use in foods (col. 3, lines 15-20).

Kwak further teaches that the iron salt may be coated with polyglycerin monostearate which is an emulsifying agent and equivalent to the glycerol fatty acid ester of claims 7-8 (col. 3, lines 21-22).

Nanbu, further teaches that similar iron salts used for foods, having similar emulsified coated components such as polyglycerol fatty acid esters with oils, are effective for enriching food and feeds because they supplement individuals with deficiencies and maintain the good flavor of the food or feed; and that they are produced to have particles sizes of less than 0.5 microns, as claimed. See reference starting at figure 3 and col. 4, lines 14+, including col. 5, lines 45+.

It would have been obvious to a person of ordinary skill in the art at the time of invention to have substituted the iron salt, as taught by Misaki, with the emulsifier coated iron salt, as claimed, because one of skill in the art would have a reasonable expectation of success in the combined teachings of Kwak and Nanbu, because Kwak and Nanbu teach that it is known in the food art to microencapsulate iron salts in a particulate range of less than 0.5 microns, and that use of such salts are beneficial as supplements for individuals having deficiencies; and a person of ordinary skill in the art would have been motivated to make the substitution since encapsulating iron has the benefit of increasing the absorption efficiency of iron in the body.

Response to Arguments

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action, which provides the claimed ranges of particulate sizes of the emulsified agent-coated iron salt. Please see the discussion above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. George whose telephone number is (571)

272-5955. The examiner can normally be reached on Mon. - Thurs. between 9:00 am and 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia A George
Examiner
Art Unit 1794

/Patricia A George/
Examiner, Art Unit 1794

/Keith D. Hendricks/
Supervisory Patent Examiner, Art Unit 1794